

AMENDED IN SENATE JUNE 18, 2008

AMENDED IN ASSEMBLY MAY 6, 2008

AMENDED IN ASSEMBLY APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1773

Introduced by Assembly Member Hayashi

January 14, 2008

~~An act to amend Section 114435 of, and to add Section 114436.5 to,~~
An act to add and repeal Section 114436.5 of the Health and Safety Code, relating to retail food.

LEGISLATIVE COUNSEL'S DIGEST

AB 1773, as amended, Hayashi. Retail food: long-term health care facilities.

Existing law, the California Retail Food Code, provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health and is primarily enforced by local health agencies. A violation of any provision of the code is a misdemeanor.

This bill would require the director to review, and, by January 1, 2010, to make a specified determination as to the equivalency of certain facility licensing surveys and regulatory requirements in ensuring the adequacy of food safety and dietary services, consistent with the food-borne illness prevention and public health intervention goals of the California Retail Food Code that are used by local enforcement agencies to survey ~~retail~~ food facilities, and the need for developing specific recommendations regarding the best ways to ensure the

adequacy of food safety and dietary services in long-term health care facilities, as provided.

Existing law prohibits a food facility from being open for business without a valid permit, and requires that a permit be issued by the enforcement agency, as defined, when the enforcement agency's investigation determines, among other things, that the facility is in compliance with the code. Existing law requires that the fee for a permit be sufficient to cover the actual expenses of administering and enforcing the code.

The bill would require the director, by September 1, 2009, to provide the findings and recommendations required to be developed pursuant to the bill to the appropriate policy and fiscal committees of the Legislature.

This bill would prohibit an enforcement agency from permitting or inspecting, or charging, *with a specified exemption*, a long-term health care facility a fee for the permit for the period from January 1, 2009, to January 1, 2010. *It would also exempt, until January 1, 2011, all long-term health care facilities from the building and structural requirements of the code.* ~~The bill would require the director, by September 1, 2009, to provide the findings and recommendations required to be developed pursuant to provisions of the bill to the appropriate policy and fiscal committees of the Legislature.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 114435 of the Health and Safety Code~~
- 2 ~~is amended to read:~~
- 3 ~~114435. For purposes of this article, the following definitions~~
- 4 ~~shall apply:~~
- 5 ~~(a) "Child day care facilities" shall have the same meaning as~~
- 6 ~~defined in Section 1596.750.~~
- 7 ~~(b) "Community care facilities" shall have the same meaning~~
- 8 ~~as defined in Section 1502.~~
- 9 ~~(c) "Long-term health care facilities" shall have the same~~
- 10 ~~meaning as defined in Section 1418.~~
- 11 ~~(d) "Residential care facilities for the elderly" shall have the~~
- 12 ~~same meaning as defined in Section 1569.2.~~

1 (e) ~~“Residential care facilities for the chronically ill” shall have~~
2 ~~the same meaning as a “residential care facility” defined in Section~~
3 ~~1568.01.~~

4 ~~SEC. 2.~~

5 *SECTION 1.* Section 114436.5 is added to the Health and Safety
6 Code, to read:

7 114436.5. (a) The director shall review the food safety and
8 dietary services provisions in the federal certification and state
9 licensing survey requirements for long-term health care facilities,
10 and compare the requirements to those in this part used by local
11 enforcement agencies to survey ~~retail~~ food facilities.

12 (b) No later than January 1, 2010, the director shall, based on
13 the review required pursuant to subdivision (a) and input provided
14 by interested parties, including, at a minimum, representatives
15 of long-term health care facilities, local environmental health
16 departments, and patient advocacy groups, make a determination
17 as to both of the following:

18 (1) The equivalency of facility licensing surveys and regulatory
19 requirements in ensuring the adequacy of food safety and dietary
20 services in long-term health care facilities, consistent with the
21 food-borne illness prevention and public health intervention goals
22 ~~of the California Retail Food Code.~~ *of this part.*

23 (2) The need for developing specific recommendations to the
24 extent necessary to ensure the adequacy of food safety and dietary
25 services in long-term health care facilities, as required under
26 paragraph (1), which may include, but not be limited to, a
27 recommendation requiring that facilities continue to be subject to
28 ~~an independent survey inspections~~ pursuant to this part by local
29 enforcement agencies or changes or augmentations to the current
30 *licensing* requirements and survey process for long-term health
31 care facilities.

32 (c) No long-term health care facility shall be permitted or
33 inspected, or charged a fee for a permit issued pursuant to Section
34 114381 for the period from January 1, 2009, to January 1, ~~2010.~~
35 *2010, unless that facility was permitted, inspected, or charged a*
36 *fee for a permit by a local enforcement agency prior to July 1,*
37 *2008. Every long-term health care facility shall be exempt from*
38 *the building and structural requirements of this part until January*
39 *1, 2010. The suspension of permitting and enforcement shall not*
40 *be construed to limit the authority of a local enforcement agency*

1 *to conduct food-borne illness investigations and to respond to food*
2 *safety-related complaints.*

3 (d) No later than September 1, 2009, the director shall provide
4 the findings and recommendations developed pursuant to this
5 section to the appropriate policy and fiscal committees of the
6 Legislature.

7 (e) *For purposes of this section, “long-term health care*
8 *facilities” shall have the same meaning as in Section 1418.*

9 (f) *This section shall remain in effect until January 1, 2011, and*
10 *as of that date is repealed, unless a later enacted statute, that is*
11 *enacted before January 1, 2011, deletes or extends that date.*